

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	Hon. Basil H. Lorch III

**TRUSTEE'S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH HODGE LIVESTOCK NETWORK INCORPORATED AND
ANDERSON FARMS, INC. d/b/a ANDERSON CATTLE CO.**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the bankruptcy estate (the "Estate") of Eastern Livestock Co., LLC ("Debtor"), by counsel, respectfully moves ("Settlement Motion") the Court to approve a compromise and settlement of claims between the Trustee, Hodge Livestock Network Incorporated ("Hodge") and Anderson Farms, Inc. d/b/a Anderson Cattle Co. ("Anderson"). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case ("Chapter 11 Case") on December 6, 2010 (the "Petition Date"). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.

3. The Trustee filed the *Trustee's Chapter 11 Plan of Liquidation* on July 23, 2012 [Docket No. 1255] and the *First Amended Chapter 11 Plan of Liquidation* on October 26, 2012 [Docket No. 1490] ("Plan"). The Court entered an Order on December 17, 2012 [Docket No. 1644] ("Confirmation Order") confirming the Plan. Pursuant to the Plan and the Confirmation Order, general unsecured creditors of Debtor's estate could choose to "opt in" and receive a distribution from the "Fifth Third Claim Settlement Fund" (as that term is defined in the Plan). As provided in the Plan, a creditor's election to "opt-in" affects the creditor's rights to and amount of distributions under the Plan. The Plan required any creditor who opts in to waive certain claims against non-Debtor entities. Other effects of an election to opt in are more particularly described in the Plan and in the Confirmation Order.

4. The Trustee contends that prior to the Chapter 11 Case, Debtor delivered to Anderson 68 head of cattle (the "Subject Cattle"). Anderson did not pay Debtor for the Subject Cattle. Instead, Anderson paid Hodge \$52,330.73 on account of the Subject Cattle.

5. Because Debtor was not paid for the Subject Cattle, the Trustee initiated Adv. Proc. No. 13-59059 (the "Adversary") by filing a complaint (the "Complaint") against Hodge and Anderson. The Complaint asserts alternative theories of recovery against Hodge and Anderson relating to the delivery of the Subject Cattle.

6. Hodge filed a proof of claim (the "Hodge POC") in the Chapter 11 Case. The Hodge POC is designated on the official claims register maintained by The BMC Group, Inc. as claim no. 208 and asserts an unsecured claim totaling \$295,741.32. The Trustee filed an objection (the "Objection") to the Hodge POC.

7. Hodge executed and submitted an "Opt-In Agreement" by the deadline set forth in the Plan and Confirmation Order.

The Settlement

8. The Trustee has negotiated a settlement of the Adversary on the terms set forth in the Settlement Agreement attached hereto as Exhibit A ("Settlement Agreement").

Pursuant to the Settlement Agreement, Hodge (i) assigns to the Trustee all of Hodge's rights, as an "Opt In Creditor," to receive distributions from the "Fifth Third Claim Settlement Fund," and (ii) shall pay the Trustee \$10,000 pursuant to the terms of a Note defined and described in the Settlement Agreement.

9. All payments received under this settlement (the "Settlement Payments") shall become part of the Recovery Fund (as that term is defined in the Plan).

10. Within five (5) business days of the date an order is entered by the Court approving this Settlement Motion, the Trustee, Hodge and Anderson shall file all pleadings necessary to cause the dismissal of the Adversary with prejudice and (b) the Trustee shall withdraw the Objection.

Basis for Relief

11. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

12. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found., 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

13. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. Continued litigation with Hodge and Anderson, including depositions of necessary fact witnesses, would necessarily require significant additional expense with no guarantee of any recovery to the estate.

14. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2014, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on March 6, 2014, a copy of the foregoing pleading was served via electronic mail transmission on the following:

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